



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0977]

RIN 1625-AA00

Safety Zone, Savannah River, Savannah, GA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters around the M/V SWAN during its transit from the Savannah River entry point to Garden City Terminal in Savannah, GA and during cargo operations. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the transport and offloading of oversized cranes. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Savannah or a designated representative.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], through December 2, 2017. For the purposes of enforcement, actual notice will be used from November 21, 2017, through [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0977 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST2 Adam White, Marine Safety Unit Savannah Office of Waterways Management, Coast Guard; telephone 912-652-4353, extension 233, or email Adam.C.White@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. Immediate action is needed to respond to the potential safety hazards created by the transport and offloading of oversized cranes. The Coast Guard received information on October 12, 2017 regarding the operations beginning on November 21, 2017. The operation would begin before the rulemaking process would be completed. Because of the dangers posed by the cranes, the safety zone is necessary to provide for the safety of persons, vessels, and the marine environment in the event area. Therefore, it is impracticable and contrary to the public interest to delay promulgating this rule, as it is necessary to protect the safety of waterway users.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with the transport and offloading of oversized cranes.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP Savannah has determined that potential hazards associated with the transport and offloading of oversized cranes starting November 21, 2017, will be a safety concern for anyone on the Savannah River from the Savannah River entry point to Garden City Terminal in Savannah, GA. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the M/V SWAN transit and cargo operations.

IV. Discussion of the Rule

This rule establishes a safety zone from November 21, 2017 through December 2, 2017. The safety zone will cover all navigable waters within 500 yards of the M/V SWAN during cargo operations, and 1 mile ahead and astern of the M/V SWAN during inbound transit. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during transit and cargo operations. No vessel or person will be permitted to enter, transit through, anchor in, or remain within the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. The safety zone is only in effect within a small area around the M/V SWAN and only for less than two weeks during operations. Vessels and persons seeking to enter, transit through, anchor in, or remain within the regulated area may seek authority from the COTP or a designated representative. The Coast Guard will provide notification of the regulated area to the local maritime community by Local Notice to Mariners, Broadcast Notice to Mariners via VHF-FM marine channel 16, and Marine Safety Security Bulletin release.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is

consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only during inbound transit and cargo operations of the M/V SWAN. It is categorically excluded from

further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5;

Department of Homeland Security Delegations No. 0170.1.

2. Add § 165.T07-0977 to read as follows:

§ 165.T07-0977 Safety Zone; Crane Transit and Unloading from M/V SWAN, Savannah River, Savannah, GA.

(a) Regulated area. The following areas are established as safety zones:

(1) All waters of the Savannah River within one nautical mile ahead and astern of the M/V SWAN as it transits from the Savannah River entrance to Garden City Terminal.

(2) All waters within a 500-yard radius around the M/V SWAN while conducting cargo operations at Garden City Terminal.

(b) Definition. As used in this section, “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels or aircraft, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP) Savannah in the enforcement of the regulated areas.

(c) Regulations. (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area of the safety zone unless authorized by the COTP Savannah or a designated representative.

(2) Persons or vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact COTP Savannah by telephone at (912) 652-4353, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the COTP Savannah or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP Savannah or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, Marine Safety Security Bulletins, and on-scene designated representatives.

(d) Enforcement period. This rule will be enforced from November 21, 2017 through December 2, 2017.

Dated: November 17, 2017.

Norm C. Witt,
Commander, U.S. Coast Guard,
Captain of the Port Savannah.

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